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**TITLE 326 AIR POLLUTION CONTROL BOARD****FIRST NOTICE OF COMMENT PERIOD**

LSA Document #08-674

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM IN LAKE AND PORTER COUNTIES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [326 IAC 13-1.1](#) that would add criteria to determine if an antique vehicle is exempt from the Lake and Porter county vehicle inspection and maintenance program. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 13-1.1](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

The Lake and Porter county inspection and maintenance (I/M) program began in 1984, and it continues to contribute to the improvement in air quality in these counties. To help ensure continued compliance with the National Ambient Air Quality Standard for ozone in Lake and Porter counties and to contribute to regional attainment efforts, IDEM executed a rulemaking (LSA Document #06-284(F)), which became effective on April 19, 2008, that made certain enhancements to the I/M program. Definitions for antique vehicles and show vehicles were also added to the I/M rules at [IC 13-1.1-1](#), and vehicles meeting the definition of "antique vehicle" or "show vehicle" were exempted from the testing requirements of the motor vehicle I/M rule.

"Antique vehicle" is defined by [IC 9-13-2-3](#). That definition states that an "antique motor vehicle means a motor vehicle or motor scooter that is at least twenty-five (25) years old." The breadth of the definition at [IC 9-13-2-3](#) is far beyond what was intended by the rulemaking as it exempts approximately 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. The intent was to allow vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from testing. In order for IDEM to facilitate the process of offering antique or historic vehicle exemptions from the I/M program, this rulemaking proposes to amend [326 IAC 13-1.1](#) to clarify the criteria for determining if a vehicle is an antique vehicle and therefore exempt from the I/M program. IDEM is considering the following criteria:

"Antique vehicle" means a vehicle that meets the following criteria:

- (1) The vehicle must be at least twenty-five (25) years old and registered and plated as a historic motor vehicle with the Indiana bureau of motor vehicles.
- (2) The vehicle shall be restricted to the addition of three thousand (3,000) miles per calendar year to the vehicle.
- (3) Federally required pollution control equipment for that make and model year vehicle must be in place.
- (4) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the requirements of (1) through (3) have been met.

**Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Establish criteria to determine if an antique vehicle is exempt from the I/M program.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend the rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

**Applicable Federal Law**

40 CFR 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) contains requirements for revisions to the SIP. 40 CFR 86 (Control of Emissions from New and In-Use Highway Vehicles and Engines) contains requirements for I/M programs.

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative considers adding criteria to determine if an antique vehicle is exempt from the I/M program. The impact is negligible because there are approximately 4,600 vehicles that would be inspected due to the 1976 and newer provision. This alternative addresses a regulatory gap created by the existing definition of an antique vehicle.

Potential Fiscal Impact of Alternative 2. This alternative will have no fiscal impact.

### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

[www.in.gov/idem/compliance/ctap/index.html](http://www.in.gov/idem/compliance/ctap/index.html)

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Alison Surface, Senior Environmental Manager  
IDEM Compliance and Technical Assistance Program - OPPTA  
MC 60-04 IGCS W-041  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Megan Tretter  
IDEM Small Business Assistance Program Ombudsman  
MC 50-01 - IGCN 1307  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 234-3386  
[mtretter@idem.in.gov](mailto:mtretter@idem.in.gov)

### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Manda Clevenger, Rules Development Section, Office of Air Quality at (317) 232-8229 or (800) 451-6027 (in Indiana).

### **STATUTORY AND REGULATORY REQUIREMENTS**

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#08-674 (APCB) I/M Program - "Antique Vehicle"  
Manda Clevenger Mail Code 61-50  
c/o Administrative Assistant  
Rules Development Section  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk,

Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by September 26, 2008.

Additional information regarding this action may be obtained from Manda Clevenger, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief  
Air Programs Branch  
Office of Air Quality

*Posted: 08/27/2008 by Legislative Services Agency*

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